

## **TRURO PLANNING BOARD**

Meeting Minutes - Tuesday, April 15, 2014

Truro Town Hall, 24 Town Hall Road, Truro, MA at 6:00 pm

**Members Present:** Karen Snow (Chair), Bill Worthington, Leo Childs, Chris Lucy, Lisa Tobia and Bruce Boleyn. **Absent:** John Pendleton

**Others Present:** Charleen Greenhalgh (ATA/Planner), Steven Sollog, Donald Poole, Bruce Edmands, Paul Kiernan, Jack Riemer, Ben Zehnder, Eliza Cox, Tom Frisardi, Joan Holt and David Clark

Ms. Snow called the meeting to order at 6:04 pm

### **Winkler Route Six Trust, Michael F. Winkler, Trustee, 1 Noons Heights Road, Site Plan Review**

Representative: Attorney Ben Zehnder

This is a continuation of the public hearing from April 1, 2014. The applicant seeks endorsement of an Application for Site Plan Review pursuant to §70.2 of the Truro Zoning By-law for 1) landscape material stockpiling and processing; 2) Asphalt/Brick/Concrete (ABC) stockpiling; and 3) ABC crushing no more than five times each calendar year for a week's duration each instance. The property is located at 1 Noons Height Road, Atlas Map 39 Parcel 166.

Mr. Zehnder the applicant's representative requested a further continuance of this matter to May 6, 2014. Ms. Tobia moved to continue the Site Plan Public Hearing to May 6, 2014. Seconded by Mr. Boleyn, voted on and approved 6-0-0.

### **2014-001 Willie J. Cater and Gloria J. Cater, 9B Benson Road, Definitive Subdivision**

Representatives: Attorney Bruce Edmands, Don Poole, P.L.S and Dave Clark, P.E.

This is a continuation of a hearing from February 18, and March 4, 2014. The applicants seek for approval of a Definitive Plan pursuant to MGL c.40A, Section 81T and Section 2.5 of the Town of Truro Rules and Regulations Governing the Subdivision of Land with respect to their property known and numbered 9B Benson Road, Truro and shown as Parcel 50 on Truro Assessor's Map, Sheet 53. The Application seeks approval of a single lot subdivision access to and egress from which will be served by a driveway located over a right of way as meeting the specifications set forth in a Judgment entered in the Commonwealth of Massachusetts Land Court.

Mr. Worthington recused himself and moved to the audience.

Mr. Edmands related that at the April 1, 2014 meeting an agreement was reached that the abutters would submit a proposal of compromise using a diagonal route up the hill. The proposal with 42 requirements/issues concerning the road design was received and is not acceptable. The proposal asks that the Caters agree to a road design that is not within the bounds of the Truro Subdivision rules and regulations without the support of those who will be directly affected by it, the only assurance would be that the abutters would remove their opposition to the plan. Mr. Zehnder, representing the abutters stated that the proposed route included many restrictions, but

was intended to begin a discussion. The proposal was not presented in good faith and Mr. Zehnder offered an apology to the Caters. The abutters are seeking the least amount of disturbance to the hillside therefore the proposal before the Board is the easement designated by the Land Court, and is the preferred route for the abutters. If the Planning Board can waive the grade restrictions and also the cul-de-sac the fill will be greatly reduced.

Ms. Tobia asked for clarity of the path of the road. Mr. Zehnder stated that the path is the one laid out by the Land Court referring to plan A. Attorney Cox representing the LaFredo property asked the Board to consider granting of waivers to minimize the damage to the terrain, view and esthetic beauty that is existing at this site and recognize the interference with the existing septic system that will occur if the preferred route A is followed. She asked the Board to keep in mind that the court decreed a right of way through three private properties, if ever there was a situation to grant waivers this is such a case. Attorney Cox identified Bob Perry as the engineer for all three abutters. Thomas Frisardi, attorney representing Lucy Clark, added that grade waivers are a necessity and asked if the Planning Board would take a vote even a straw vote so the Caters would know that they would have a usable lot after this is constructed. Ms. Snow asked if the DPW Director could provide some examples of existing grade conditions on some roads in Truro. Ms. Snow read a letter from Paul Kiernan into the record; the letter asked the Board to proceed with caution as further litigation may follow if the Board acts outside its powers.

Ms. Snow reviewed the requested waivers made by the applicants Ms. Snow stated that it is appropriate to consider these requests for waivers at this time. (Note the numbering is as they were discussed at the meeting, not from the plan numbers.)

1. Minimum Right of Way width Mr. Boleyn stated that implicates safety issues. Ms. Tobia stated she has no problem with reduced Right of Way. Mr. Childs still uncomfortable with reduced Right of Way. Mr. Lucy stated he has no problem with a design of 15' of paved surface and the judge has ordered this width. Mrs. Greenhalgh asked for the plan to be clarified. Mr. Edmands cleared up the description of what the court required for both the Right of Way width and the paved surface. Through consensus the Board and the applicant agreed the Right of Way will be 20'. Ms. Snow asked the Board if they will waive paved surface down to 10' with 2' of shoulder. For a length of 560'. Ms. Tobia asked to do as little harm as possible and is in favor of an 8' surface where possible. The Board discussed the width. Mr. Boleyn preferred a wider paved surface will allow waiving the width down to 10'.
2. Vertical alignment waiver. The Board agreed the minimum intersection angle requirement can be waived for a single lot.
3. Grade requirement waivers. Mr. Lucy stated for reference Sally's way grade is 10%. Long discussion on grades. Ms. Tobia stated that she is willing to waive grade up to 16%. Mr. Childs stated that 200' of 16% grade is passable unless it is covered with ice. Ms. Snow summarized that the Board would waive a road up to a 16% grade for some defined distance.
4. Ms. Snow asked for a re-vegetation plan where a pre-inventory of existing growth was provided in order to replace what was there with the same vegetation. The Board agreed.
5. Ms. Snow addressed the need for turn-outs at points on the road for vehicles to pass each other. The applicant agreed to provide turnouts with hardener not paved.
6. The Board asked for a T turnaround instead of a cul-de-sac.

7. The existing septic system in the path of the road should be dealt with. Through the land court it is the responsibility of Caters to deal with the septic. There is not as yet a determination that the road will interfere with the septic system on the Loffredo property. Attorney Cox disagreed with this determination. The Loffredo's are asking for a condition on the site plan where if the road interferes with the septic system, it is remedied before commencement of the road construction. Mr. Poole stated that the 'as built' card shows a different foot print for the location of the leach pit. Ms. Snow asked for a time constraint. Mrs. Greenhalgh stated that making it a condition of approval then the time constraint is built into the application. Next meeting is May 6 2014. All material needs to be submitted by April 28 for consideration of May 6. Attorney Zehnder stated that these conditions do not represent an approval of the application but rather complete and accurate terms and conditions for proceeding. He stated we should not lose sight of the need for things to be built correctly and will work toward that end with the other attorneys and engineers.
8. Covenant release will be based on construction of the road prior to issuance of a building permit.
8. Road surface should not be pavement wherever possible. Where grade allows use alternative to paving. The attorneys discussed road surfaces producing noise and dust.

Ms. Snow stated that this is the end of the waivers list. Ms. Snow opened the meeting to the public.

Mr. Kiernan asked the Board not to waive 40' easement requirement, the paved width, the radius of the road intersect and the turnaround. A 12' wide easement will not allow him to be eligible for a building permit. Mrs. Holt stated there are 2 different items before the Board. The Board should not combine the two. A one lot subdivision which requires a 40' easement. The other item before the Board is a driveway. Mr. Worthington a member of the Truro Conservation Trust asked why the Board wants to waive the easement when a 40' easement does not change the cut or fill it is delineation on an assessor's map and not much more. Ms. Snow asked if he meant the right of way or the layout. Mr. Poole questioned the appropriateness of Mr. Worthington speaking at the meeting, for not disclosing his seat on the Planning Board and not being a direct abutter. Mr. Riemer spoke on the willingness of the Board to waive the requirements which have been worked on to insure the safety and overall appeal of the Town of Truro, He stated it is not wise to waive these requirements, for future precedents which will have a bearing on future applications that will come before this Board.

Ms. Snow stated subdivision regulations are waive-able. This Board created the rural road alternative purposely to allow less impact on the environment. Ms. Snow stated that the Board routinely waives width grade and intersect angles as well as construction of cul-de-sacs. The Board is waiting for more information. Ms. Snow asked that the plan contain a note stating this subdivision is limited to one residence and no further development is permitted. Mr. Kiernan stated the Board should ask town counsel if the 40' easement, the 20' turn radius and turnaround are waive-able by this Board.

Mr. Boleyn moved to continue this public hearing to May 6, 2014. Seconded by Mr. Lucy, voted on and continued to May 6. 6-0-0

**Assignment of Motions for Zoning Articles for the Annual Town Meeting**

Ms. Snow assigned the articles to members for motion at Town Meeting.

**Continued Discussion and Review of Proposed Changes to the Planning Board Policies and Procedures, including Code of Conduct**

Tabled to next meeting.

**Review and Approval of Meeting Minutes**

Mr. Worthington moved to accept the minutes for March 4, 2014 as amended. Seconded by Mr. Childs, voted on and approved 6-0-0.

Mr. Worthington moved to approve the minutes of March 17 as amended. Seconded by Mr. Childs voted on and approved 6-0-0.

Mr. Childs moved to approve the minutes of March 19 as amended. Seconded by Ms. Tobi, voted on and approved 6-0-0.

Adjourned at 8:00pm

Respectfully Submitted,

Steve Sollog